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Merger - Great Northern - Northern Pacific Railroads

Mike Mansfield 1903-2001

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MERGER OF THE GREAT NORTHERN, THE NORTHERN PACIFIC, AND OTHER RAILROADS

Mr. METCALF. Mr. President, on behalf of myself and for Senators MANSFIELD, BURDICK, MORSE, YOUNG of North Dakota, MONDALE, JORDAN of Idaho, and McCARTHY, I introduce, for appropriate reference, a bill to amend section 5 of the Interstate Commerce Act to insure the protection of the public interest in rail merger proceedings.

This bill would subject all pending rail consolidations and mergers which have not yet been consummated to the operation of the antitrust laws, whether or not the Interstate Commerce Commission has issued its decision approving and authorizing such mergers.

The Interstate Commerce Commission would be prohibited, under the terms of this bill, from approving any further rail mergers or consolidations unless in accordance with revised standards hereafter enacted by Congress.

The bill contains a 3-year expiration date within which time Congress, after thorough review of the present merger statute and the Interstate Commerce Commission's provisions, can enact positive standards for the ICC to apply in rail merger proceedings.

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This bill grants authority to the Department of Justice to determine that any pending merger not be prosecuted under the antitrust laws, if it finds it in the overall public interest. I hope that Hon. Alan S. Boyd, the Secretary of Transportation, will promptly prepare and submit proposed legislative rules or statutes to be applied in these rail merger cases.

Special interest, at this time, in connection with this legislation, is brought about by the merger, some of the effects of which were announced today, of the Great Northern and the Northern Pacific Railroads, two great transcontinental railroads which operate throughout the Northwest. The merger of those two prosperous and wealthy long-line roads with the Burlington, the Spokane, Portland, and Seattle, and some other minor roads will have a profound effect on labor and the economy of the Northwest, and on our whole transportation system.

This bill, with the material that I shall ask to be put in the Record, will demonstrate that we should perhaps, acting upon the basis of the pending merger of the Great Northern and the Northern Pacific, review our whole merger concept; and I hope the chairman of the Committee on Commerce [Mr. Magnuson], who is in the Chamber at this time, will ask for the appropriate recommendations and will hold prompt hearings, so that we can explore this whole very vital and important matter.

I yield to my colleague from Montana.

Mr. MANSFIELD. Mr. President, I wish to say that I am happy to be a cosponsor of this measure with my distinguished colleague and other Senators representing the Great Northwest, which extends from Minnesota to Washington State. It is our hope after, at long last, the release by the ICC of the decision in the Great Northern and Northern Pacific Railroad case, that this matter will be promptly considered by the chairman of the Committee on Commerce, the distinguished senior Senator from Washington [Mr. Magnuson], who is also dean of the Members of Congress from the Northwest.

He is aware that in 1958, when the merger act was passed, it was stipulated, or at least so we thought, that mergers were to take place between weaker railroads for the purpose of strengthening them, or between a stronger railroad and a weak one for the purpose of making better combination as a result.

But when lines like the Northern Pacific and the Great Northern, which are both operating at a very good profit, seek to consolidate and merge, along with other lines, then I think those of us who represent rural States like Montana must make our position known.

As my colleague has said, the effect of rail labor on the economy of a State 148,000 square miles in area, but very sparsely populated, will be tremendous.

I join my colleague in asking the distinguished chairman of the Committee on Commerce to consider the possibility of holding hearings on this matter next year—next month.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. MAGNUSON. Mr. President, I suggest that this is a matter of very serious concern to the whole Northwest, to all the States from Chicago, Ill., to Puget Sound in Washington.

The distinguished majority leader and the junior Senator from Montana are absolutely correct when they state that when we wrote the bill in 1958 in an attempt to do something about the railroad situation in this country, the whole intent of the section of the bill which allowed the ICC to approve these mergers concerned the fact, as the majority leader stated, that in some cases a merger may be thoroughly justified.

Two weak lines may go together and thereby have a better fiscal situation. One strong line may join together with one weak line.

I think one such merger that would be completely justified would be the New York Central and the Pennsylvania. And they are also picking up some of the two weak lines in the New England States which were bankrupt—the Boston, Maine, and the New Haven.

What will happen? I will put the exact figures in the Record, but I believe I am quite accurate. Since 1958, of the 104 class A railroads in the United States at that time, about 25 were in good fiscal condition. Perhaps the fiscal condition was not as good as the stockholders would like to see. However, they were in good fiscal condition. The fiscal condition of some railroads were not bad. There were some, like the Boston, Maine, and New Haven, that were in bad financial shape.

We anticipated that there would be applications for mergers between—as the Senator from Montana pointed out—two weak lines or that one strong line would pick up a weak line. What happened? Exactly what the Antitrust Division told us would happen happened.

We passed the bill. About 80 percent of the applications for mergers to the ICC were within the 25 strong railroads. I think that does violate the intent of the law.

We cannot be specific about this. There may be some cases in which the mergers are justified. In other cases they are not justified.

We told the ICC at that time also that in our considered opinion when they looked at a merger they should look at the whole sectional problem and not merely at two or three railroads. We thought they should examine how the merger would affect, say, the whole Pacific Northwest, west of Chicago, served by one or two or three lines.

This is not a new proposal. As a matter of fact, the Northern Pacific and the Great Northern have been trying to merge since 1870. The first application was in 1870. And I suppose that there were some hard souls representing these States in the Senate in those days that might have opposed it. I do not know. However, it did not happen.

We cannot quite understand this, and I am sure I speak for the majority of the committee.

This matter was before the Commission some 8 or 9 months ago, and the Commission turned it down.

I do not know the exact vote. However, I heard by way of the grapevine that the vote was 6 to 5. All of a sudden, after a few months, the Commission reversed itself and voted in favor of the merger. I think the Commission today voted in favor of the merger by a vote of 9 to 2. I do not know of any additional evidence they have received since then.

There may be some conditions involved in the merger that make it a better proposition. I do not know. However, in any event, I think in view of the condition of railroad labor, the people who work for the railroads and have spent their lives working for the railroads, that we should consider the matter.

I know the State of Montana fairly well. The railroads have to provide service in both the northern and southern parts of the State. And we are talking about many miles in between.

Mr. METCALF. More than 200 miles.

Mr. MAGNUSON. The same situation exists in North Dakota and in parts of Minnesota, and in Alberta and Manitoba.

I would like to know a little more about the reason for the change in the vote of the ICC.

The Senator from Oregon [Mr. Morse] agrees with us. He is interested in part of this matter, also.

I think it behooves the Commerce Committee, through this resolution, to immediately find out what the facts are that have caused this complete turnaround in the vote of the Commission.

Unless someone can show me some more facts than I now have, I think the intent of the 1958 act has been violated.

I speak for myself, but I think I speak also for the majority of the members of the committee.

Mr. METCALF. Mr. President, I am pleased to hear the senior Senator from Washington, the chairman of the Committee on Commerce, and the senior Senator from all of the Northwest States make that statement.

I can remember as a Representative when the matter came before the House, the illustration was made that perhaps the Milwaukee, as a weak road, would merge with the Northern Pacific and Great Northern to have a strong line. However, nobody came in with a suggestion that the Milwaukee would be left out.

Mr. MAGNUSON. And, as I understand it, unless something is done, the Milwaukee will have pretty hard going.

Mr. MORSE. Mr. President, I associate myself completely with the remarks of the chairman of the Committee on Commerce, the senior Senator from Washington [Mr. Magnuson] and with the remarks of the Senator from Montana.

We have to ride herd on this one as far as our legislative responsibilities are concerned. And we must make perfectly clear that, after all, the Interstate Commerce Commission and the antitrust unit happen to be wards of Congress.

We had better see to it that we protect our wards.

I will stand shoulder to shoulder with the senior Senator from Washington and the distinguished majority leader, the senior Senator from Minnesota, the junior Senator from Minnesota, and the rest of those that have already served notice on this administration that we do not intend to have the loss that will be suffered if the facts are as we believe them to be in connection with this proposed merger.

Mr. MAGNUSON. Mr. President, I can assure the Senators that hearings will be held in this matter by the Commerce Committee.

Mr. METCALF. Mr. President, I am delighted to hear that statement from the chairman of the committee. This is such an important matter to the economy and to the labor of our several States, and to the transportation facilities, the freight shippers.

Mr. MAGNUSON. Mr. President, I do not know if the shippers will get better service. Let them say so. However, I know that the shippers do not want to be cut out from service, whether they are away up at Wolf Point, or down at Billings. One thing goes one way and another goes the other.

Mr. METCALF. Mr. President, I have not had an opportunity as yet to read the report and the decision of the commission.

Mr. MAGNUSON. We will look at it and be as objective as we can. However, I think this is of great concern to everybody in our area. I say to my majority leader that I hope it is of concern to the Attorney General of the United States.

Mr. MANSFIELD. Mr. President, there is one way to find out, and that is to hold inquiries and call the committee into session and look into the merger. And I am glad that the Senator has agreed to do so.

I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2822) to amend section 5 of the Interstate Commerce Act to insure protection of the public interest in rail merger proceedings, introduced by Mr. METCALF (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Railroad Merger Amendment of 1967".

AMENDMENT TO INTERSTATE COMMERCE ACT

SEC. 2. Section 5 of the Interstate Commerce Act is amended by inserting at the end thereof a new paragraph (17) as follows:

"(17) Notwithstanding the provisions of paragraph (2) and (11), any consolidation or merger or other transaction between two or more carriers by railroad to which paragraph (2)(a)(1) applies prior to the enactment of

this Act, whether or not approved and authorized by the Commission, unless heretofore consummated, shall be subject to the operation of the antitrust laws unless the Department of Justice determines that such merger or consolidation or other transaction should not be prosecuted under the antitrust laws as in the overall public interest."

SEC. 3. The Interstate Commerce Commission shall not, after the effective date of this Act, approve under section 5 of the Interstate Commerce Act any consolidation or merger or other transaction to which section 5(2)(a)(1) of such Act applies between two or more carriers by railroad unless in accordance with revised standards hereafter enacted by the Congress.

SEC. 4. The provisions of this Act shall expire three years after the date of enactment of this Act.